

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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BRIAN CHAN, CHRISTOPHER CABANILLA,
CHUN H. LIU, JOHN SCOTTO, DANIEL VACCARO,
DAVID CHEUNG, DOMINICK CELANO, PHILIP
CELANO, EDWARD CHEUNG, PETER CHEUNG,
KENNY YEUNG, LOUIS DISTEFANO, HELEN
DOUGHERTY, JAROSLAW KUZNICKI, JOHN
GILMORE, JOSE A. DIAZ, KEVIN GRANDE, KIEN
LEE, LENNY CESARE, MAGDALENA CABANILLA,
ROBERT BUSH, MICHAEL TALIERCIO, MICHAEL
RADOVICH, DRAGAN RADNOVICH, PHILIP
CESARE, PHILIP MARCHESE, PHILIPPE
CABANILLA, STEPHEN PETROGLIA, TIM CHAN,
TOMMY PENG, VICKI PENG, VICTOR
CHAMORRO, and VINCENT MUSTACCHIA,

Plaintiffs,

-against-

BIG GEYSER, INC., LEWIS HERSHKOWITZ,
GERARD A. REDA, LYNN HERSHKOWITZ,
STEVEN HERSHKOWITZ, ERIC CELT, RON
GENOVESE, MIKE WODISKA, KAYTE MOONEY,
and DENNIS TOMPKINS,

Defendants.

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Civil Action No.: 17-CV-6473-ALC

**DECLARATION OF JEFFREY W. BRECHER, ESQ. IN SUPPORT OF
DEFENDANT'S MOTION TO DISMISS**

Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the following
is true and correct:

1. I am a Principal with the firm Jackson Lewis P.C., 58 South Service Road, Suite
410, Melville, New York, New York 11747, attorneys of record for Defendants in connection with
the above-captioned action. I am fully familiar with the facts set forth herein, and make this
Declaration in Support of Defendants' Motion to Dismiss Pursuant to Federal Rule of Civil
Procedure 12(b)(6).

2. The following statements are true based upon my own knowledge and review of pertinent documents.

3. Attached as Exhibit A is a true and accurate copy of the Bill Jacket for L. 1934 ch. 171.

4. Attached as Exhibit B is a true and accurate copy of portions of the Bill Jacket for L. 1939, ch. 851.

5. Attached as Exhibit C is a true and accurate copy of portions of the Bill Jacket for L. 1965, ch. 1031.

6. Attached as Exhibit D is a true and accurate copy of portions of the Bill Jacket for L. 1989, ch. 177.

7. Attached as Exhibit E is a true and accurate copy of portions of the Brief the defendants in that case filed with the New York State Supreme Court Appellate Division, First Department in the case *Martinez v. Alubon, Ltd.*, Case No. 302278/2012.

s/

JEFFREY W. BRECHER

Affirmed on this 22nd day
of November, 2017

CERTIFICATE OF SERVICE

I hereby certify that on this 22nd day of November, 2017, I caused a true and correct copy of the enclosed **DECLARATION OF JEFFREY W. BRECHER, ESQ. IN SUPPORT OF DEFENDANTS' MOTION TO DISMISS EXHIBITS** attached thereto to be electronically filed with the Clerk of the Court and served in accordance with the Federal Rules of Civil Procedure, the Southern District's Local Rules, and the Southern District's Rules on Electronic Service upon the following parties and participants:

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s/

JEFFREY W. BRECHER, ESQ.